

REMARKS

Claims 1, 5, 23, and 26-29 are amended, claims 13 and 18 are cancelled, and no claims are added; as a result, claims 1-12, 14-17, and 19-31 are now pending in this application.

Claim Objections

Claims 5, 13, 18, 27, and 28 were objected to under 37 CFR 1.75(c), as being of improper dependent form. Applicant has amended claims 5, 27, and 28 to place these claims in independent form, including all of the limitations of their base claims. Applicant also has cancelled claims 13 and 18. Based on these amendments, Applicant believes that the objections to claims 5, 13, 18, 27, and 28 have been overcome, and respectfully requests that the objections be withdrawn.

Claim Rejections Under 35 USC § 102

Response To Rejection of Claims 1-9, 12-21, and 23-30:

Claims 1-9, 12-21, and 23-30 were rejected under 35 USC § 102(b) as being anticipated by Sperry (U.S. PG Publication 2001/0049921) (hereafter “Sperry”). Claims 13 and 18 have been cancelled, and accordingly the rejection is moot with respect to these claims. With respect to the remaining rejected claims (1-9, 12, 14-17, 19-21, and 23-30), Applicant respectfully traverses the rejection.

Sperry discloses a foam-in-place packaging system, which comprises a bag formed of two sheets of flexible plastic film material sealed on all four sides by respective edge seals. A plurality of frangible seals are between the two sheets and define separate interior cells in the bag. The cells separately contain a first and second foam precursor composition. (see paragraphs 0045-0046).

In paragraphs 0085-0096, Sperry discusses warming a bag prior to use. Sperry states: “FIG. 11 illustrates a warming chamber 70 of a size and shape appropriate to hold a number of the cushion precursors 71 which in FIG. 11 are illustrated as resting on a plurality of shelves 72.”

(paragraph [0096]) Examination of FIG. 11 makes it clear that the “warming chamber 70” includes a type of oven with a door.

Applicant’s independent claims 1, 5, 23, and 26-29, and the claims that depend from them, include at least the following distinguishing elements:

“An apparatus comprising:

. . . a foam precursor heating unit, forming a portion of the apparatus, located in contact with and in thermal proximity to the foam precursor storage unit . . .”

Applicant’s claims include a “foam precursor heating unit, located in contact with and in thermal proximity to the foam precursor storage unit . . .” The foam precursor heating unit forms a portion of the claimed apparatus. The “heating chamber 70” of Sperry is an oven-like apparatus, which is external to the cushion precursors 71 that it heats. Sperry does not disclose an apparatus that has a foam precursor heating unit forming a portion thereof. Accordingly, Sperry does not disclose the limitations of Applicant’s claims 1-9, 12-21, and 23-30.

Sperry does not teach each and every element of Applicant’s claims 1-9, 12-21, and 23-30. Based on the amendments and the above remarks, Applicant believes that claims 1-9, 12-21, and 23-30 are in a condition for allowance. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 1-9, 12-21, and 23-30 under 35 USC § 102(b), and allow these claims.

Response To Rejection of Claims 1-21 and 23-30:

Claims 1-21 and 23-30 were rejected under 35 USC § 102(e) as being anticipated by Anders (U.S. PG Publication 2005/0033207 A1) (hereafter “Anders Reference”). Claims 13 and 18 have been cancelled, and accordingly the rejection is moot with respect to these claims. With respect to the remaining rejected claims (1-12, 14-17, 19-21, and 23-30), Applicant respectfully traverses the rejection.

Applicant submits herewith Declaration under 37 CFR 1.132 by an inventor of the

present application, Robert Anders, showing that any invention disclosed but not claimed in the Anders Reference was derived by him, and thus not the invention “by another.” Applicant believes that this Declaration is sufficient to overcome this rejection.

Further, Applicant believes that the inventive subject matter of claims 1-21 and 23-30 is not disclosed in the Anders Reference. Applicant reserves the opportunity to raise this argument in more detail in a future correspondence, if warranted.

Based on the above traverse, Applicant believes that the rejection of claims 1-21 and 23-30 based on the Anders Reference has been overcome. Applicant respectfully requests that the rejection be reconsidered and withdrawn.

Claim Rejections Under 35 USC § 103(a)

Claims 1-31 were rejected under 35 USC § 103(a) as being unpatentable over Bertram (U.S. Patent No. 5,899,325) (hereafter “Bertram”) in view of Anders Reference, and further in view of Sperry. Claims 13 and 18 have been cancelled, and accordingly the rejection is moot with respect to these claims. With respect to the remaining rejected claims (1-12, 14-17, and 19-31), Applicant respectfully traverses the rejection.

This rejection is based on the Anders Reference, if it applied, being prior art under 35 USC 103 via 35 USC 102(e). Applicant believes that the Anders Reference should be disqualified as prior art against the claimed invention. An inventor of the present application, Robert Anders, has declared that any invention disclosed but not claimed in the Anders Reference was derived by him, and thus the subject matter of the Anders Reference is not the invention “by another.” Applicant submits herewith a Declaration under 37 CFR 1.132 to this effect, and Applicant believes that the Declaration is sufficient to disqualify the Anders Reference, and thus to overcome the rejection of claims 1-31 under 35 USC 103(a).

Further, Applicant believes that the combination of Bertram, Anders, and Sperry neither discloses, suggests or motivates the inventive subject matter of Applicant’s claims 1-31. Applicant reserves the opportunity to raise this argument in more detail in a future

correspondence, if warranted.

Based on the above traverse, Applicant believes that the rejection of claims 1-31 under 35 USC 103(a) has been overcome. Applicant respectfully requests that the rejection be reconsidered and withdrawn.

Support for Claim Amendments

Support for the amendments to claims 1, 23, 26, and 29 may be found in the originally filed application at page 5, line 26. Amendments to claims 5, 27, and 28 involve placing previously dependent claims into independent form, and these amendments are non-substantive. Accordingly, no new matter is introduced as a result of these amendments.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (480-538-1735) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

ROBERT ANDERS, ET AL.

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20 Dec '05

By

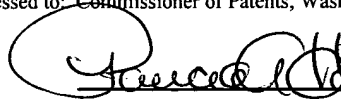


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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 20th day of December, 2005.

PATRICIA A. HULTMAN

Name



Signature